

**OCCUPATIONAL SAFETY
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Attachment No. 2

INITIAL STATEMENT OF REASONS**CALIFORNIA CODE OF REGULATIONS**

**TITLE 8: Chapter 4, Subchapter 7, General Industry Safety Orders (GISO) and
New Subchapter 3, Agricultural Safety Orders (AgSO)**

Relocation of Agricultural Safety Orders
(Title 8 Reform Element 1, Part 2)

BACKGROUND

This rulemaking action was initiated by the Occupational Safety and Health Standards Board (Board) as a result of the implementation of the Title 8 Reform Project. The Reform Project was first considered in response to Executive Orders W-127-95 and W-131-96. The Executive Orders directed all state agencies to review their standards and, where possible, repeal unnecessary standards, consolidate duplicative standards, and amend existing state standards to minimize the negative impact on California business and the economy. As a result and as a part of the 1997 Budget Act that the Legislature approved and the Governor signed, the Board was given authority to proceed with Title 8 Reform. Numerous advisory committee meetings were convened to consider the need and scope of reform. During the advisory committee meetings, a consensus was reached that: 1) there was a need to better organize the safety orders in Title 8, Chapter 4, to make the different occupational safety and health requirements easier to locate; 2) any Title 8, Chapter 4, reform activities must be limited to non-substantive revisions only; 3) the reform of Title 8, Chapter 4, should include a review and possible reform of all the subchapters in Chapter 4, not just Subchapter 7; and 4) the reform of Title 8, Chapter 4, would consist of eight reform elements as described in Attachment No. 4. This rulemaking is the second of several rulemaking packages that would be developed to implement the Title 8 Reform Project.

Reform Element 1, Parts 1 and 2

Reform Element No. 1, Part 1, has been completed and included relocating 14 existing sections titled "Compressed Air Safety Orders," and its two Appendices, originally located in Subchapter 3, into the General Industry Safety Orders (GISO) in Group 26. The present rulemaking, Reform Element No. 1, Part 2, includes identifying all safety orders specific to the agricultural industry and relocating these standards into Subchapter 3, titled "Agricultural Safety Orders (AgSO's)." A separate subchapter containing all agricultural related safety orders would provide one of

California's largest and most hazardous industries with an industry-specific subchapter that contains safety orders unique to agricultural operations. This reform element would relocate approximately 35 existing sections from other subchapters into new Subchapter 3. Both Parts 1 and 2 of Reform Element 1 are limited to non-substantive revisions only.

Therefore, the goal of the Title 8 Reform Project is to enhance the organization of Chapter 4, Title 8, CCR, by making the safety orders easier to find, more user friendly, and understandable; thereby increasing both employer and employee awareness, understanding, and compliance with the safety orders affecting their workplace.

SUMMARY

As part of the implementation of Title 8 Reform Project, Reform Element No.1, Part 2, the proposed rulemaking would transfer the agricultural-industry-specific safety orders from existing Subchapter 7, GISO, to new Subchapter 3, titled "Agricultural Safety Orders," in new Articles 1 through 10, thereby improving the organization of Title 8, Chapter 4.

The intent of this proposal is to make the Agricultural Safety Orders (AgSO's) easier to locate and understand by placing the sections that relate to the agricultural industry in a more logical order and location within new Subchapter 3.

This rulemaking action proposes to transfer in its entirety all the AgSO's from Subchapter 7 of the GISO's into new Subchapter 3, Agricultural Safety Orders. The proposed rulemaking action consists only of non-substantive, editorial, reformatting, and renumbering of articles, sections, subsections, and grammatical revisions associated with the transfer of all the AgSO's from Subchapter 7 into new Subchapter 3, as new Articles 1 through 10 of the AgSO's. These non-substantive revisions are not all discussed in this Initial Statement of Reasons, but are clearly indicated in the regulatory text in underline and strikeout format. Additionally, any additional non-substantive revisions to the regulatory language currently contained in Subchapter 7, GISO, are highlighted in underline and strikeout format in proposed Subchapter 3, Group 26 of the AgSO's, as new Articles 1 through 10.

It is noted that because the proposed transfer of the AgSO is non-substantive, these proposed revisions are considered revisions without regulatory effect and could be accomplished using the Section 100 rulemaking process. However, because of the large number of safety orders proposed to be transferred, this proposal would utilize the standard rulemaking process pursuant to the Administrative Procedure Act and Title 1 of the California Code of Regulations.

SPECIFIC PURPOSE AND FACTUAL BASIS OF PROPOSED ACTION

Reform Element 1, Part 2 - Subchapter 7, General Industry Safety Orders

As indicated in Section 3202, Subchapter 7, contains safety orders that are intended to apply to all places of employment in California as defined by Labor Code Section 6303, unless the Board adopts safety orders applying to certain industries, occupations or employments, in which like conditions and hazards exist. Those orders would take precedence whenever they are inconsistent with the GISO's. Currently, the agricultural-industry-specific safety orders are found throughout Subchapter 7 and are located among thousands of other safety orders that do not apply to agricultural operations, thereby making the specific requirements regarding agricultural operations difficult to locate.

The AgSO's proposed to be transferred from Subchapter 7 to Subchapter 3 include all sections in existing Article 13, Agricultural Operations. Additionally, the proposal would transfer certain specific agricultural requirements from existing Article 27, Transportation of Employees and Materials.

This entire rulemaking proposal to relocate these agricultural industry specific safety orders into new Subchapter 3, Agricultural Safety Orders, is necessary to improve clarity, awareness, and understanding of the regulatory requirements for an industry whose employers and employees have historically found such access to Title 8 of the CCR difficult by making the accessibility of the agricultural standards in new AgSO's easier to locate within Title 8. This proposal to transfer all agricultural industry specific sections and applicable definitions in existing Subchapter 7, GISO's, to proposed Articles 1 through 10 of new Subchapter 3, AgSO, is non-substantive as these specific safety orders are proposed for transfer in their entirety with minor editorial revisions for clarity.

New Subchapter 3. Agricultural Safety Orders, New Articles 1 through 10

This rulemaking proposal would transfer all sections containing agricultural specific safety orders and related definitions currently contained in the GISO's in Subchapter 7, into new Articles 1 through 10 of new Subchapter 3, AgSO's.

Proposed Sections 1151, 1165, 1170, 1200, 1201, 1202, 1203, 1204, 1205, 1210, 1211, 1213, 1215, 1216, 1217, 1218, 1219, 1220, 1221, 1225, 1230, 1235, 1250, 1255, 1270, 1275, and 1280 are transferred sections that are essentially verbatim with no substantive revisions. These sections are proposed for transfer from existing Sections 3436, 3437, 3438, 3439, 3440, 3441, 3442, 3444, 3445, 3446, 3447, 3448, 3450, 3451, 3452, 3453, 3454, 3455, 3456, 3457, 3458, and portions of existing Sections 3700, 3701, and 3702.

In addition, proposed Sections 1160, 1260, and 1285 include standards that would apply directly to agricultural operations. These provisions are currently contained in the general industry and construction safety orders as they also pertain to the general and construction industries. However, these proposed sections contain no new requirements, as the agricultural industry is already

required to comply with these provisions. Proposed Sections 1150 and 1240 include standards that the agricultural industry is already required to comply with.

New Article 1. Introduction

This proposal transfers portions of the provisions of existing Sections 3207, 3436, 3437, 3457, and 3700 into new Article 1, titled “Introduction,” which would contain new Sections 1150 and 1151.

New Section 1150. Scope and Application.

Existing Section 3436, titled “Application” is proposed for transfer to new Section 1150, titled “Scope and Application.”

The proposed editorial revision to the title of new Section 1150 clarifies this section’s content by including the scope of this standard.

Existing Section 3436 contains a description of the type of operations subject to the safety orders in existing Article 13, Agricultural Operations.

The proposed amendments in new Section 1150 revise the original wording from “The orders in this article ...” (indicating all safety orders in existing Article 13) to “The orders in this subchapter ... (indicating all safety orders in Subchapter 3). This editorial revision is necessary to limit the scope and application of the relocated AgSO’s to the safety orders in new Subchapter 3.

This editorial revision limits the application of the relocated AgSO’s to the safety orders in new Subchapter 3, AgSO’s. Additionally, there are proposed editorial revisions to the current language of existing Section 3436 initiated as part of the implementation of Title 8 Reform Element No. 3 to be promulgated to provide clear introductions to each subchapter in Chapter 4.

In addition, it is proposed to include the phrase “(The orders...) establish minimum occupational safety and health standards and ...” to be consistent with similar scope statements in Chapter 4. Additionally, the proposal deletes the existing language “Agricultural machinery and equipment are subject to all applicable Safety Orders except where they are inconsistent with the orders in this article.” This language is proposed to be replaced with the language “Operations, conditions, machinery and equipment not specifically covered by the safety orders in this subchapter are subject to all applicable orders contained in Chapter 4.” This revision is necessary to clearly indicate that the sections in new Subchapter 3 contain safety orders specific to agricultural operations, as identified by the new subchapter’s title.

New Section 1151. Definitions.

This proposal relocates all definitions specific to the agricultural safety orders currently in existing Section 3437 of the GISO into proposed new Section 1151, titled “Definitions.” Proposed Section 1151 contains all definitions specific to new Subchapter 3 including all definitions currently in existing Section 3437, selected definitions from existing Section 3457,

and definitions consistent with language in existing Sections 3700, 3649 and 3207 for Farm Labor Vehicle, Agricultural Tractor and Qualified Person, respectively.

As noted in the proposed text, this proposal transfers all definitions currently in existing Section 3437 to proposed Section 1151. These definitions include Agricultural Equipment, Agricultural Operations, Frond, Ground Driven Components, Guard or Shield, Guarded by Location, Long-Handled Hand Tool, Nip Point, Power Take-Off (PTO) Drivelines, Power Take-Off (PTO) Shaft, Self-Propelled Agricultural Equipment, and Short-Handled Hand Tool.

This proposal also transfers specific definitions from existing Section 3457(b) to proposed Section 1151. These definitions include Agricultural Employer, Agricultural Establishment, Hand-Labor Operations, Handwashing Facility, Potable Water, and Toilet Facility.

In addition, this proposal transfers the definition of “Farm Labor Vehicle” from existing Section 3700 to proposed Section 1151.

Finally, this proposal includes definitions from existing Sections 3649 and 3207. These definitions include Agricultural Tractor and Qualified Person, respectively. These definitions apply to general industry and are also included in new Subchapter 3 because they are definitions that pertain to the agricultural industry, too.

The proposal creates a definition section at the beginning of new Subchapter 3 which would contain all definitions specific to the agricultural industry in new Subchapter 3.

New Article 2. General Requirements

This proposal transfers portions of the provisions of existing Section 3203 and the provisions of existing Sections 3438 and 3439 into new Article 2, titled “General Requirements,” which would contain new Sections 1160, 1165, and 1170, respectively.

New Section 1160. Injury and Illness Prevention Program.

Existing Section 3203 is proposed to be referenced in new Section 1160, titled “Injury and Illness Prevention Program.” Proposed Section 1160 includes a reference to the existing requirements of Section 3203 that every employer must establish, implement and maintain an effective Injury and Illness Prevention Program (IIPP).

This proposal is necessary to ensure clarity that the agricultural industry is subject to the IIPP requirements of the GISO’s, as agricultural employers are already required to comply with the existing requirements of Section 3203 of the GISO. This proposal is consistent with references to Section 3203 in industry-specific subchapters.

New Section 1165. Communications.

Existing Section 3438 is proposed for transfer to new Section 1165, titled “Communications.” New Section 1165 contains requirements for employee safety instructions and warnings in the language they understand.

It is proposed to include the phrase “... the employer shall provide ...” following the word “English” and to remove the unnecessary phrase “... shall be presented ...,” thereby, making the wording simpler and more direct.

New Section 1170. First-Aid and Medical Response.

Existing Section 3439, titled “First-Aid Kit,” is proposed for transfer to new Section 1170, titled “First-Aid and Medical Response.” New Section 1170 contains first-aid and medical response requirements.

Amendments are proposed to the title of existing Section 3439 to delete the term “Kit” and to add the phrase “and Medical Response.” This proposal to amend the title of this section is necessary to correctly reflect the content of proposed Section 1170 and would be consistent with the Title 8 Reform Element No. 6 to be promulgated to correct inaccurate titles of various sections.

Additionally, this proposal amends the organizational format of existing Section 3439(b) and includes editorial revisions that better describe the original intent of the existing standard.

New Article 3. Field Sanitation Requirements

This proposal transfers portions of the provisions of existing Section 3457 into new Article 3, titled “Field Sanitation Requirements,” which would contain new Sections 1200 through 1205.

Proposed Article 3 would contain the field sanitation requirements for employees working in agricultural operations and would present these requirements in a reformatted and clearer fashion.

New Section 1200. Scope and Application for Field Sanitation.

The scope of the field sanitation requirements in existing Section 3457(a) are proposed to be transferred into new Section 1200(a), and the application of the field sanitation standard indicated in existing Section 3457(c) is proposed to be transferred into new Section 1200(b) and (c). There are non-substantive revisions in wording engendered by the placement of these provisions in new Article 3.

This proposal transfers portions of the requirements of existing Section 3457(c) that currently reference existing Sections 3360 - 3368 for all agricultural operations not involving hand-labor operations into proposed Section 1200(b), deletes the term “Requirements,” as this word is unnecessary and amends this standard by including the phrase “in the General Industry Safety Orders,” to clarify that Sections 3360 - 3368 are contained in these orders.

In addition, it is proposed to transfer the existing requirement that “all other agricultural operations shall meet the following requirements,” currently contained in existing Section 3457(c) into proposed Section 1200(c) and to amend a phrase by referencing field sanitation requirements in proposed Sections 1200 through 1205.

These proposed editorial and organizational changes are necessary to transfer this requirement, which stipulates the application of the safety orders in new Article 3, into proposed Section 1200. This proposal provides a clearer scope and application for the field sanitation requirements in new Article 3.

New Section 1201. Potable Drinking Water Requirements for Field Sanitation.

Existing Section 3457(c)(1) is proposed to be transferred in its entirety into new Section 1201. As reflected in its proposed title, new Section 1201 contains drinking water requirements for field sanitation for specified agricultural operations.

These proposed editorial revisions to the title of new Section 1201 would clarify this section’s content.

New Section 1202. Toilet and Handwashing Facility Requirements for Field Sanitation.

Existing Section 3457(c)(2), titled “Toilet and handwashing facilities,” is proposed to be transferred in its entirety into new Section 1202. As reflected in its proposed title, new Section 1202 contains toilet and handwashing facility requirements for specified agricultural operations.

The proposed editorial revisions to the title of new Section 1202 would clarify this section’s content.

New Section 1203. Maintenance of Field Sanitation Facilities.

Existing Section 3457(c)(3), titled “Maintenance standards,” is proposed to be transferred in its entirety into new Section 1203. As reflected in its proposed title, new Section 1203 contains maintenance requirements of field sanitation facilities for specified agricultural operations.

These proposed editorial revisions to the title of new Section 1203 would clarify this section’s content.

New Section 1204. Reasonable Use of Field Sanitation Facilities.

Existing Section 3457(c)(4), titled “Reasonable use,” is proposed to be transferred in its entirety into new Section 1204. As reflected in its proposed title, new Section 1204 contains requirements for the employer to provide the employee reasonable use of field sanitation facilities during specified agricultural operations.

These proposed editorial revisions to the title of new Section 1204 would clarify this section's content by clearly indicating that this section contains reasonable use standards that require the employer to provide the employee the opportunity to use field sanitation facilities.

New Section 1205. Reporting Requirements for Field Sanitation.

Existing Section 3457(d), titled "Required Reports," is proposed to be transferred in its entirety into new Section 1205. As reflected in its proposed title, new Section 1205 contains reporting requirements for employers subject to field sanitation standards.

These proposed editorial revisions to the title of new Section 1205 would clarify this section's content by clearly indicating that this section contains safety orders associated with reporting requirements for employers subject to field sanitation standards.

As noted in the proposed text, this proposal amends the original wording in proposed Section 1205 from "... this Section shall provide ..." to "... this Article shall provide ...," to reflect that the safety orders in existing Section 3457 are proposed for transfer to new Article 3. Additionally, this proposal amends the original wording in existing Section 3457(d), proposed Section 1205, from "... the requirement of this subsection ..." to "... the requirement of this section ...," to reflect that the existing safety orders in Section 3457(d) are proposed for transfer to new Section 1205.

New Article 4. Employee Transportation Safety Requirements

This proposal transfers portions of the provisions of existing Sections 3701 and 3702 into new Article 4, titled "Employee Transportation Safety Requirements," which would contain new Sections 1210 and 1211.

New Section 1210. Seatbelt Requirements for Farm Labor Vehicles.

Existing Section 3702(h) is proposed to be transferred in its entirety into new Section 1210. As reflected in its proposed title, new Section 1210 contains seatbelt requirements for farm labor vehicles.

The proposed title of new Section 1210 would clarify this section's content by clearly indicating that this section contains safety orders associated with seat belt installation and use requirements for farm labor vehicles.

New Section 1211. Vehicle Operating Requirements.

The proposed title of new Section 1211 would clarify this section's content. The descriptive title language is proposed to be included to aid in locating these requirements when using the table of contents.

Existing Section 3701(a) is proposed to be transferred in its entirety into new Section 1211.

As reflected in its proposed title, new Section 1211 contains requirements for the operation of farm labor vehicles. This section mandates persons operating a farm labor truck or a farm labor bus to possess a valid school bus driver's certificate or the appropriate class driver's license and a certificate issued by the Department of Motor Vehicles to permit the operation of farm labor vehicles.

This proposal also includes a reference in proposed subsection (b) to Article 27 of the GISO's which contains general employee transportation requirements that farm labor vehicles may be subject to. This proposed reference is necessary to aid in identifying additional existing requirements associated with the transportation of employees to which agricultural operations, as defined in proposed Section 1151, may be subject to.

New Article 5. Tool Safety Requirements

This proposal transfers the provisions of existing Section 3456 into new Article 5, titled "Tool Safety Requirements," which would contain new Section 1213.

New Section 1213. Hand-Held Tools.

Existing Section 3456 is proposed to be transferred in its entirety into new Section 1213, titled "Hand-Held Tools."

References to other provisions are fine-tuned for clarity and for conformance with the overall reorganization plan that this proposal implements.

New Article 6. Equipment Safety Requirements

This proposal transfers the provisions of existing Section 3440, portions of existing Section 3441(c) through (h), Sections 3444, 3445, 3446, 3447, and 3453, into new Article 6, titled "Equipment Safety Requirements," which would contain new Sections 1215, 1216, 1217, 1218, 1219, 1220, and 1221, respectively.

New Section 1215. Agricultural Equipment.

Existing Section 3440 is proposed to be transferred in its entirety into new Section 1215(a) through (h), titled "Agricultural Equipment."

It is proposed in subsection (a) to reference other safety requirements regarding agricultural tractors in Article 25 of the General Industry Safety Orders.

This proposal is necessary to aid the employer in locating the agricultural tractor requirements contained in the referenced article.

It is proposed in subsection (g) to amend the existing language from "... in this article ..." to "... in this subchapter ..." This proposal is necessary to reflect that the agricultural safety orders in

existing Article 13, titled “Agricultural Operations,” are proposed for transfer into new Subchapter 3, titled “Agricultural Safety Orders.”

Additionally, existing Section 3441(c), (d), (e), (f), (g), and (h) which contains specific agricultural equipment requirements are proposed to be transferred in its entirety into new Section 1215(i) through (n). This proposal is necessary to organize specific requirements to which agricultural equipment is subject to in one article, and in separate sections solely containing such requirements. A consistent organization of agricultural equipment requirements in proposed Article 6 is necessary to aid the employer in locating the agricultural equipment specific safety orders.

It is proposed to include two “NOTES” in proposed Section 1215. The proposed “NOTE 1.” referencing the standards for tractors in Article 25 of the GISO makes the employer aware that additional tractor requirements exist in the GISO that apply to tractors used in agricultural operations. The proposed “NOTE 2.” referencing standards for orchard man-lifts in Section 3641 of the GISO makes the employer aware that specific requirements exist in the GISO that apply to orchard man-lifts. These proposed “NOTES” are informational only.

New Section 1216. Horizontal Rotary Spreaders; New Section 1217. Beet Trucks; New Section 1218. Choppers; New Section 1219. Conveyors and Elevators; and New Section 1220. Vegetable-Trimming Saws.

As noted in the proposed text, the specific equipment requirements in existing Sections 3442, 3444, 3445, 3446, and 3447 are proposed for transfer verbatim with no proposed revisions to new Sections 1216, 1217, 1218, 1219, and 1220 of proposed Article 6. This proposal is necessary to clearly indicate that these sections contain safety orders associated with specific equipment requirements.

New Section 1221. Applicator Rigs, Tanks, and Vessels Used for Fertilizer, Insecticide, Pesticide, and Other Chemical Solutions of a Hazardous Nature.

Existing Section 3453(a), (b), (c), (d), (e), (f), and (h) is proposed for transfer verbatim with no proposed revisions, except a minor editorial revision, into new Section 1221.

It is proposed in new Section 1221(b) to revise an incorrect chemical designation for anhydrous ammonia from “NH3” to the correct designation of “NH₃.”

New Article 7. Equipment Operating Requirements

This proposal transfers portions of the provisions of existing Section 3441 into new Article 7, titled “Equipment Operating Requirements,” which would contain new Section 1225.

New Section 1225. Operation of Agricultural Equipment.

Existing Section 3441(a) and (b) is proposed to be transferred into new Section 1225(a) and (b), titled “Operation of Agricultural Equipment.”

This proposal amends the referenced section number from “Section 3455 of this article” to “Section 1250” in the “NOTE” of proposed subsection (a). This proposal is necessary to reflect that the referenced requirements currently in existing Section 3455 are proposed for transfer to new Section 1250 of the same subchapter as new Section 1225.

New Article 8. Restricted and Hazardous Material Safety Requirements

This proposal transfers the provisions of existing Section 3450, Section 3451, and portions of Section 3453 into new Article 8, titled “Restricted and Hazardous Material Safety Requirements,” which would contain new Sections 1230, 1235, and 1240, respectively.

New Section 1230. Formulation and Application of Restricted Materials. (Organophosphates and Carbamates, Toxicity Categories I and II).

Existing Section 3450 is proposed for transfer to new Section 1230, titled “Formulation and Application of Restricted Materials. (Organophosphates and Carbamates, Toxicity Categories I and II).” Proposed Section 1230 contains the mandate that medical requirements relating to the formulation and application of restricted materials must be as required by Title 3, Article 23 of the California Code of Regulations.

As noted in the proposed text, the reference of the title “California Administrative Code” is updated to read “California Code of Regulations” to reflect the current title.

New Section 1235. Decontamination of Equipment Used for Restricted Materials.

Existing Section 3451 is proposed for transfer verbatim with no revisions to new Section 1235, titled “Decontamination of Equipment Used for Restricted Materials.”

New Section 1240. Employee Decontamination Means Required for Aqua Ammonia Operations.

Existing Section 3453(g) is proposed for transfer to new Section 1240, with a new title “Employee Decontamination Means Required for Aqua Ammonia Operations.” Proposed Section 1240 contains eye wash requirements for operations where aqueous ammonia is used.

As noted in the proposed text, a section title is proposed to reflect the safety orders contained in proposed Section 1240. This proposal contains editorial revisions and format changes that are necessary to clarify in proposed subsection (a), the original intent of this standard, that the employer is responsible to provide eyewash requirements for operations where aqueous ammonia is used in the event aqueous ammonia is spilled in the eyes of workers.

In addition, it is proposed in subsection (b) to reformat the existing language to specify the water supply requirements during aqua ammonia operations. This proposal is necessary to clarify the existing water supply requirements during aqua ammonia operations.

These eye wash requirements in proposed Section 1240 are proposed to be separated from the equipment requirements currently contained in existing Section 3453, in order to be consistent with the organization of proposed Subchapter 3.

New Article 9. Site Safety Requirements

This proposal transfers the provisions of existing Sections 3455 and 3448 into new Article 9, titled “Site Safety Requirements,” which would contain new Sections 1250 and 1255. In addition, a new Section 1260 is proposed which would contain the existing requirements of confined space hazards contained in existing Sections 5156 and 5158.

New Section 1250. Overhead Electrical Hazards.

Existing Section 3455 is proposed to be transferred in its entirety into new Section 1250, titled “Overhead Electrical Hazards” with an editorial revision.

As stated in the “NOTE,” it is proposed to include the reference to “of the High-Voltage Electrical Safety Orders” to specifically identify the safety orders that pertain to clearance distances. This proposal is necessary to clarify the specific safety orders pertaining to overhead electrical hazards contained in this section.

New Section 1255. Water Hazards.

Existing Section 3448 is proposed to be transferred in its entirety into new Section 1255, titled “Water Hazards” with the exception of proposing to delete the term “actual” as it is unnecessary.

New Section 1260. Confined Space Hazards.

This proposal includes new Section 1260, titled “Confined Space Hazards” that is consistent with the language of existing Section 5156 and references the confined space requirements of existing Section 5158.

As noted in the proposed text, this proposal contains a reference to the confined space requirements of existing Section 5158 for all agricultural operations as defined in new Section 1151. The proposed language in new Section 1260 is consistent with that of the scope, application, and definitions of existing Section 5156 which references existing Section 5158 for industries and operations including agricultural operations.

The proposed addition of the reference to existing Section 5158 is necessary to ensure clarity that the agricultural operations, as defined in new Section 1151, are subject to the confined space requirements of existing Section 5158 of the GISO. Agricultural operations are currently required to comply with the existing requirements of Section 5158 of the GISO.

New Article 10. Operation Specific Safety Requirements

This proposal transfers the provisions of existing Sections 3458, 3454, and 3452 into new Article 10, titled “Operation Specific Safety Requirements,” which would contain new Sections 1270, 1275, and 1280, respectively. In addition, a new Section 1285 is proposed which would contain the existing requirements of helicopter operations in existing Section 3710 of the GISO and existing Article 35 of the CSO.

New Section 1270. Date Palm Operations.

Existing Section 3458, titled “Fall Protection for Date Palm Operations,” is proposed to be transferred in its entirety into new Section 1270, with new title “Date Palm Operations.”

The proposed revision to the title of new Section 1270 would provide a separate subsection title that specifically identifies the fall protection requirements during date palm operations. Therefore, this proposal is necessary to clarify the scope of the existing fall protection requirements in this section.

New Section 1275. Sheepshearing Operations.

Existing Section 3454, titled “Sheepshearing,” is proposed to be transferred in its entirety into new Section 1275, with new title “Sheepshearing Operations.”

The proposed editorial revision to the title of new Section 1270 would include the term “Operations” in the title of new Section 1275, titled “Sheepshearing Operations.” This proposal is necessary to clarify the content of this section and is also consistent with the title of proposed Article 10, titled “Operation Specific Safety Requirements,” that contains specific safety requirements of various other agricultural operations. Therefore, this proposal is necessary to clarify the scope of the existing sheepshearing operations in this section.

New Section 1280. Aircraft Crop Dusting and Spraying Operations.

Existing Section 3452, titled “Aircraft Crop Dusting and Spraying,” is proposed to be transferred in its entirety into new Section 1280, with the new title, “Aircraft Crop Dusting and Spraying Operations.” As reflected in its new title, new Section 1280 contains the requirements for aircraft crop dusting and spraying operations that must comply with the safety requirements of Article 23 of Title 3.

The proposed editorial revision to the title of new Section 1280 would include the term “Operations” in the proposed title of new Section 1280, titled “Aircraft Crop Dusting and Spraying Operations.” This proposal is necessary to clarify the content of this section and is also

consistent with the title of proposed Article 10, titled “Operation Specific Safety Requirements,” that contains specific safety requirements of various other agricultural operations.

In addition, an editorial amendment is proposed in new Section 1280 so that the reference to “California Administrative Code” is updated to read “California Code of Regulations” to reflect the current title.

New Section 1285. Helicopter Operations.

This proposal includes a reference to Article 35 of the CSO’s to make it clear that all agricultural operations utilizing helicopters in their operations must comply with the existing requirements of Article 35, titled “Helicopter Operations” of the CSO. The proposed language in new Section 1285, titled “Helicopter Operations,” is also consistent with the language in existing Section 3710 of the GISO for general industry operations, including agricultural operations, to comply with existing Article 35 of the CSO.

This proposed reference to Article 35 of the CSO is non-substantive, as this proposal references an article to which employers responsible for helicopter operations are currently subject to, including agricultural employers. This proposed reference is necessary to aid in identifying additional existing requirements associated with helicopter operations to which agricultural operations, as defined in proposed Section 1151, may be subject to. In addition, this proposal is necessary to ensure clarity that the agricultural operations, as defined in new Section 1151, are subject to the helicopter operation requirements of existing Article 35 of the CSO.

DOCUMENTS RELIED UPON

- 1) Executive Order W-127-95.
- 2) Executive Order W-131-96.
- 3) Title 8, Chapter 4 Reform Work Plan.

These documents are available for review Monday through Friday from 8:00 a.m. to 4:30 p.m. at the Standards Board Office located at 2520 Venture Oaks Way, Suite 350, Sacramento, California.

REASONABLE ALTERNATIVES THAT WOULD LESSEN ADVERSE ECONOMIC
IMPACT ON SMALL BUSINESSES

No reasonable alternatives were identified by the Board and no reasonable alternatives identified by the Board or otherwise brought to its attention would lessen the impact on small businesses.

SPECIFIC TECHNOLOGY OR EQUIPMENT

This proposal will not mandate the use of specific technologies or equipment.

COST ESTIMATES OF PROPOSED ACTION

Costs or Savings to State Agencies

No costs or savings to state agencies will result as a consequence of the proposed action.

Impact on Housing Costs

The Board has made an initial determination that this proposal will not significantly affect housing costs.

Impact on Businesses

The Board has made a determination that this proposal will not result in a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

This proposal is non-substantive and is intended to enhance the format and order of the agriculture specific safety orders. Therefore, this rulemaking is proposed to provide a positive impact on California businesses by making the standards easier to locate and understand by the regulated public.

Cost Impact on Private Persons or Businesses

The Board is not aware of any cost impact that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Costs or Savings in Federal Funding to the State

The proposal will not result in costs or savings in federal funding to the state.

Costs or Savings to Local Agencies or School Districts Required to be Reimbursed

No costs to local agencies or school districts are required to be reimbursed. See explanation under "Determination of Mandate."

Other Nondiscretionary Costs or Savings Imposed on Local Agencies

This proposal does not impose nondiscretionary costs or savings on local agencies.

DETERMINATION OF MANDATE

The Occupational Safety and Health Standards Board has determined that the proposed standards do not impose a local mandate. Therefore, reimbursement by the state is not required pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code because these standards do not constitute a “new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution.” Because the transfer of the agriculture specific safety orders is non-substantive, this proposal will not require local agencies or school districts to incur additional costs in complying with the proposal.

The California Supreme Court has established that a “program” within the meaning of Section 6 of Article XIII B of the California Constitution is one which carries out the governmental function of providing services to the public, or which, to implement a state policy, imposes unique requirements on local governments and does not apply generally to all residents and entities in the state. (County of Los Angeles v. State of California (1987) 43 Cal.3d 46.)

These proposed standards do not require local agencies to carry out the governmental function of providing services to the public. Rather, the standards require local agencies to take certain steps to ensure the safety and health of their own employees only. Moreover, these proposed standards do not in any way require local agencies to administer the California Occupational Safety and Health program. (See City of Anaheim v. State of California (1987) 189 Cal.App.3d 1478.)

These proposed standards do not impose unique requirements on local governments. All employers - state, local and private - will be required to comply with the prescribed standards.

EFFECT ON SMALL BUSINESSES

The Board has determined that the proposed amendments will not affect small businesses because the proposed revisions are non-substantive. The agricultural specific safety orders are proposed for transfer into Subchapter 3, with only editorial, reformatting, and renumbering of articles, sections, and subsections, and grammatical revisions associated with this proposed transfer.

ASSESSMENT

The adoption of the proposed amendments to these standards will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California.

ALTERNATIVES THAT WOULD AFFECT PRIVATE PERSONS

No reasonable alternatives have been identified by the Board or have otherwise been identified and brought to its attention that would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.